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10

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THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

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13

14 RICHARD E. KNAPP,)
15 Plaintiff,) No.
16 v.) COMPLAINT FOR DAMAGES
17 DUSTIN GOUDSCHAAL, in his individual) DEMAND FOR JURY TRIAL
18 capacity,)
19 Defendant.)
20 _____)

21

22 COMES NOW, Plaintiff, Richard E. Knapp, by and through his attorneys of record,
Charles A. Isely of Charles A. Isely, Attorney at Law, P.C. and John L. Green of Green, Ritchie
& Bogar, PLLC, and alleges as follows:

23

I. PARTIES

24

25 1.1 Plaintiff, Richard E. Knapp, a resident of Clark County, Washington.

COMPLAINT - 1

Charles A. Isely, Attorney at Law, P.C.
205 E 11th St., Suite 102
PO Box 61983
Vancouver, WA 98666-1983
(360) 993-1200

1.2 Defendant Dustin Goudschaal, a commissioned law enforcement officer for the city of Vancouver, WA, named in his individual capacity, believed to be a resident of Clark County, Washington.

II. JURISDICTION, VENUE and TIMELINESS

2.1 Pursuant to 28 U.S.C. § 1331, this Court has subject matter jurisdiction over Plaintiff's claims against Defendant, in his individual capacity, for violations of Plaintiff's Fourth Amendment rights as guaranteed by the Fourteenth Amendment.

2.2 28 U.S.C. § 1331 and § 1343(a) provides this Court with subject matter jurisdiction over Plaintiff's 42 U.S.C. § 1983 claims against Defendant, in Defendant's individual capacity, for a violation of Plaintiff's Fourth Amendment rights, while acting under color of state law.

2.3 The Court has personal jurisdiction over Defendant, as the acts which provide the basis for Plaintiff's claims occurred in the city of Vancouver, Clark County, Washington. The Defendant is also domiciled in Clark County, Washington.

2.4 Venue is proper in the United States District Court for the Western District of Washington at Tacoma, pursuant to 28 U.S.C. § 1391(b)(1) and (2).

2.5 This action is timely pursuant to Wash. Rev. Code § 4.16.090.

III. FACTS

3.1 In October 2018, Defendant, while employed as a Detective for the Vancouver Police Department, became one of the lead investigators of the unsolved murder of Audrey A. Frasier. Frasier was found dead in her Vancouver, WA apartment on July 17, 1994. She died by strangulation. Her death was ruled a homicide.

3.2 As a new investigator on the unsolved Frasier case, Defendant familiarized

1 himself with the extensive case file. Defendant reviewed the written reports and work of
2 previous homicide detectives, and Defendant, along with other members of his department,
3 engaged in additional witness interviews and commissioned additional forensic analysis.

4 3.3 On April 28, 2019, Defendant and Vancouver Police Detective Neil Martin
5 arrested Plaintiff, Richard E. Knapp, in Oregon for Frasier's murder.

6 3.4 On April 29, 2019, the Clark County Prosecuting Attorney's Office charged
7 Plaintiff with First Degree Murder with Sexual Motivation and Second Degree Murder with
8 Sexual Motivation.

9 3.5 On April 29, 2019, the Honorable Suzan Clark, Clark County Superior Court
10 Judge, found probable cause to arrest and detain Plaintiff for Frasier's murder, based upon
11 Defendant's Declaration of Probable Cause (hereinafter the "Declaration"), which was filed
12 contemporaneously with the Prosecutor's Motion for Warrant of Arrest (for First Degree
13 Murder with Sexual Motivation and Second Degree Murder with Sexual Motivation).

14 3.6 The Court's determination of probable cause for Plaintiff's arrest and detention
15 triggered the setting of bail conditions. The Court initially denied bail. Subsequent to April 29,
16 2019, the Court set bail at \$1.0 million dollars. At no time during his detention did Plaintiff
17 have the means to make bail.

18 3.7 On April 30, 2019, Defendant submitted an Affidavit in Support of Search
19 Warrant to the Honorable Chad Sleight, Clark County District Court Judge, seeking a search
20 warrant to collect buccal cells (oral swabs) from Plaintiff to facilitate DNA and biological
21 analysis (hereinafter the "Affidavit"). Judge Sleight, in reliance upon Defendant's Affidavit,
22 authorized Defendant's requested warrant the same day. Defendant executed the warrant less
23 than two (2) hours after its issuance.

1 3.8 On November 30, 2022, after Plaintiff spent 1,312 uninterrupted days in
 2 custody from the date of his arrest, the Court dismissed all charges against him, without
 3 prejudice, pursuant to the prosecution's motion. Clark County Prosecuting Attorney Tony
 4 Golik said his office was "no longer convinced beyond a reasonable doubt, based on the
 5 evidence we have and we understand it now, that Mr. Knapp could be convicted."
 6

7 3.9 The evidence known and available to Defendant, as of the date of Plaintiff's
 8 arrest, let alone on November 30, 2022, demonstrates Plaintiff should never have been arrested
 9 in the first place. Defendant and his partner arrested Plaintiff without probable cause.

10 3.10 In between the date of Plaintiff's arrest, on April 28, 2019, and his release on
 11 November 30, 2022, Plaintiff's life was destroyed, and he suffered severe emotional distress
 12 and trauma. He lost everything that was important to him: his job, his friends, and his home.
 13 During Plaintiff's time in custody, Plaintiff's wife was terminally ill. Plaintiff's attempts to see
 14 and hold his wife prior to her death were denied in a two-sentence order. She passed in June
 15 2021 while Plaintiff sat in Clark County Jail awaiting trial. And while Plaintiff welcomed his
 16 freedom, the Prosecution's dismissal has not removed the cloud of suspicion that remains over
 17 Plaintiff to this day.

18 3.11 Plaintiff's injuries were entirely unnecessary, and they are the direct result of
 19 Defendant's actions. In the Declaration and Affidavit, Defendant made deliberately false
 20 statements or omissions, or Defendant recklessly disregarded the truth. Defendant failed to
 21 include evidence and disclosures any competent or reasonable police officer would have known
 22 the Court would have wanted to consider prior to the issuance of a search warrant or prior to
 23 deciding whether to enter an order to arrest and detain Plaintiff.
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1 3.12 Defendant's deliberately false statements or omissions, or Defendant's reckless
2 disregard for the truth, were material. But for Defendant's deliberately false statements or
3 omissions, or but for Defendant's reckless disregard for the truth, Judge Clark would not have
4 found probable cause to issue an order for Plaintiff's arrest and detention; and Judge Sleight
5 would not have authorized the search warrant.

6 **IV. DELIBERATELY FALSE STATEMENTS or OMISSIONS; OR RECKLESS
7 DISREGARD for the TRUTH in the DECLARATION of PROBABLE CAUSE in
8 SUPPORT of ARREST WARRANT**

9 Plaintiff quotes the narrative from Defendant's Declaration, in its entirety, with
10 Plaintiff's identification of specific instances where Defendant deliberately makes false
11 statements or omissions, or where Defendant recklessly disregards the truth, after each excerpt.
12 Plaintiff emphasizes the cited deliberately false statements or omissions, or reckless disregard
13 of the truth, after each Declaration excerpt are not exhaustive. More importantly, they are
14 drawn from information in the Frasier case file that was compiled by Defendant and other
15 members of the Vancouver Police Department *before Plaintiff's arrest*. Therefore, Defendant
16 had full knowledge of this information before Defendant and his partner arrested Plaintiff and
17 before Defendant submitted his Declaration to the Court. A true and correct copy of
18 Defendant's Declaration is attached to and incorporated by reference into this Complaint as
19 **Exhibit A.**

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1 **4.1 “On the evening of July 17th, 1994 patrol units with the Vancouver Police**
2 **Department (VPD) responded to a 911 call of a possible death at 8011 E Fourth Plain**
3 **Boulevard #F11 (Family Tree Apartments). The 911 caller (later identified as Scott**
4 **Hinshaw) reported that a known acquaintance named Audrey Frasier, could be seen**
5 **from an exterior window lying on her bed naked and was not responding to knocks on**
6 **the door.”**

7 Deliberately False Statements or Omissions; or Reckless Disregard of the Truth:
8

9 4.1.1 In his Declaration, Defendant makes no mention that Hinshaw
10 admitted to being drunk and naked with Frasier in Frasier’s apartment, touching her “chest”
11 and kissing her abdomen, sometime after 2:00 a.m. on July 17, 1994. Defendant makes no
12 mention of the fact that Hinshaw admitted to manipulating the crime scene prior to arrival of
13 investigating officers on July 17, 1994. Defendant fails to mention that Hinshaw’s DNA
14 (i.e., seminal fluid) was found on the comforter underneath Frasier’s body. Defendant
15 portrays Hinshaw as merely a fact witness; a concerned neighbor who called the police. In
16 fact, Hinshaw was (and remains) a prime suspect in Frasier’s murder.

17 4.1.2 Detective Wally Stefan was one of the original officers who
18 investigated Frasier’s murder. On July 18, 1994, Detective Stefan and his partner
19 interviewed Hinshaw at a Vancouver Police precinct. Detective Stefan stated in his report
20 that “HINSHAW gave investigators every impression, throughout the interview, he was
21 being deceptive.”

23 4.1.3 Hinshaw also lived at the Family Tree Apartments. Hinshaw admitted
24 to drinking beer with Frasier, in her apartment, during the afternoon on Saturday, July 16,
25 1994.

1 4.1.4 According to Hinshaw, he went to a bar early Saturday evening, and
2 Frasier stayed in her apartment until approximately 2100 hours that day. Detective Stefan
3 notes “[Hinshaw] did not say how he knew this.”

4 4.1.5 Hinshaw told Detective Stefan he returned from the bar at
5 approximately 2:00 a.m. to 2:30 a.m. the morning of July 17, 1994.

6 4.1.6 Hinshaw admitted to drinking at several bars, and that he was
7 “drunk.”

8 4.1.7 Hinshaw stated Frasier came home after he did. She went to
9 Hinshaw’s apartment. Hinshaw then told Detective Stefan he and Frasier went to Frasier’s
10 apartment. Hinshaw described Frasier as “not sober.”

11 4.1.8 Frasier had her bed in her apartment’s living room. Hinshaw recounts
12 he laid on the right side of the bed while Frasier spoke on the phone.

13 4.1.9 “[Hinshaw] said he was lying on the right side of FRASIER’s bed, the
14 side of the bed which was closest to the kitchen. While inside her apartment, after she used
15 the phone, HINSHAW stated FRASIER disrobed. He told detectives FRASIER took her
16 clothes off, she stated that she did not want to have sex.” Hinshaw informed detectives,
17 initially, he was only wearing a pair of shorts.

18 4.1.10 In response to a question from Detective Stefan, Hinshaw recounts he
19 had had sex with Frasier only once before, a couple of months before Frasier’s death.

20 4.1.11 While lying on Frasier’s bed, Hinshaw claims he heard a knock at the
21 door, and Frasier said “My pot is here.” Hinshaw then told Detective Stefan he took a
22 blanket from Frasier’s bed and fled out the apartment’s back door. Hinshaw states he then
23 went to bed.

1 4.1.12 Hinshaw then told Detective Stefan he returned to Frasier's apartment
2 between the hours of 12:00 p.m. and 12:30 p.m. on July 17, 1994. There was no answer.
3 Hinshaw assumed Frasier "took off" with whoever knocked on her door earlier that day.

4 4.1.12.1 Hinshaw called 911 at approximately 7:45 p.m. on July 17,
5 1994.

6 4.1.13 Detective Stefan stated "HINSHAW's account of what happened
7 Saturday night was disjointed. Throughout the interview with HINSHAW, Detectives had to
8 go through HINSHAW's statements to have him clarify his incomplete answers so detectives
9 could assemble a clear, and chronological, account of his actions during the time he was
10 with FRASIER."

12 4.1.14 After detectives informed Hinshaw that there was forensic evidence at
13 the scene and asked why fingerprints and a hair were found on Frasier's chest and abdomen,
14 Hinshaw admitted to touching Frasier's chest and to kissing her abdomen. When asked if it
15 was possible his fingerprints could be found on Frasier's neck, Hinshaw answered his hand
16 may have touched Frasier's neck when he moved to touch her chest.

17 4.1.15 Hinshaw *then* admits to taking his clothes off when Frasier disrobed.

18 4.1.16 "Hinshaw said he took his shorts off in FRASIER's apartment. He
19 was asked if he had sex with FRASIER that night. He said he couldn't remember.
20 FRASIER [sic] said he would have used a condom if he was going to have sex with the
21 decedent."

23 4.1.17 "HINSHAW made the statement to detectives; 'I know I didn't have
24 sex with her.' He seemed adamant that he didn't [have] sex with FRASIER. Detectives
25

1 informed HINSHAW that his statements were very vague. He responded by saying: 'I'm
2 telling you as much as I remember.'"

3 4.2 “Patrol units arrived at the location and found no open ingress into the
4 residence as the front door and rear sliding glass door were locked. Patrol units could
5 see the naked female from a window and also could not rouse her. The patrol units
6 subsequently forced the front door open to the apartment. Officers were quickly able
7 to determine that the female, identified as Aubrey Frasier, was deceased.”

Deliberately False Statements or Omissions; or Reckless Disregard of the Truth:

10 4.2.1 In his Declaration, Defendant omits the fact that Hinshaw admitted to
11 altering the crime scene on July 17, 1994 *after the police first arrived at Frasier's*
12 *apartment.* While officers secured the front of Frasier's apartment, Hinshaw was busy
13 shoving a comforter he took Frasier's apartment through a window from Frasier's back
14 patio, knocking over a potted plant inside the apartment. Hinshaw returned the comforter so
15 hurriedly that he failed to notice he dumped some of his clothes (which were presumably
16 wrapped in the comforter) on Frasier's patio.

17 4.2.2 According to Detective Stefan, “There was a question whether the
18 rear sliding patio window of FRASIER’s apartment was open, or closed, when one of the
19 first responding officers (VPD Uniform Officer Skarpho) arrived. Officer Skarpho told
20 [Detective Stefan] that at the time he arrived, he was escorted to the rear of FRASIER’S
21 apartment, by HINSHAW. Officer Skarpho told [Detective Stefan] the rear window was
22 closed and the mini-blinds on this window were closed.” However, Officer Skarpho
23 reported he could see Frasier lying on the bed between a gap between the bottom of the
24 window’s blind and the window sill.
25

1 4.2.2.1 Hinshaw himself reported he saw Frasier from the rear patio
2 through this same gap between the blind and the window sill before calling 911 at
3 approximately 7:45 p.m. on July 17, 1994.

4 4.2.3 “However, at the time [Detective Stefan] first entered the victim’s
5 apartment, [Detective Stefan] noticed that the rear patio window blinds were closed. The
6 bottom of the blind was touching the window sill. The sliding window was open. On the
7 floor, below the window, [Detective Stefan] saw what appeared to be a small plant that had
8 fallen on the floor. It appeared the plant had been sitting on the window sill and had been
9 knocked off the sill.”

10 4.2.4 “After seeing this [Detective Stefan] went outside and questioned
11 Officer Skarpho about how he could have seen the victim lying on the bed from outside the
12 apartment. It was at this time Officer Skarpho said the window was closed and the window
13 shade was not fully extended to the window sill.”

14 4.2.5 Detective Stefan noted the officers who first responded to Hinshaw’s
15 911 call positioned themselves in the front of Frasier’s apartment. Not the rear. When
16 Detective Stefan questioned Hinshaw, on July 18, 1994, on the discrepancies between his
17 observations of the window sill and window and Officer Skarpho’s observations, Hinshaw
18 “told detectives that he shoved a blanket through the rear patio window of FRASIER’s
19 apartment. He said the rear window was open, ‘all the way.’ HINSHAW told detectives
20 after he discovered FRASIER, he shoved the blanket (which [he] had taken from
21 FRASIER’S apartment early Sunday morning) through FRASIER’S patio window. He said
22 he put the blanket into FRASIER’S apartment shortly before he called 911.”

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1 4.2.6 Hinshaw stated the plant on the sill may have fallen over, and he
2 estimated he shoved the blanket through the window five to ten minutes before calling 911.

3 4.2.7 Hinshaw went on to admit he called his brother before calling 911.
4 When asked for his brother's phone number, Hinshaw stated he did not have it memorized.
5 When asked why he called his brother before calling the police about Frasier, Hinshaw
6 explained he brother had experience in such an area because Hinshaw's brother had once
7 found a dead person.
8

9 4.2.8 In addition to the blinds, the window, and the blanket shoved back
10 into Frasier's apartment, Detective Stefan noted a further discrepancy related to clothing
11 found on Frasier's back patio. "When HINSHAW was questioned about the clothes which
12 were found by police on the decedent's patio, he said the clothes found outside could have
13 been wrapped in the blanket which he took from FRASIER'S apartment early Sunday
14 morning. It should be noted, Officer Skarpho told [Detective Stefan] and Detective Sundby
15 at the time that he first went to the rear of FRASIER's apartment, with HINSHAW, there
16 was no clothing lying on the concrete patio at the rear of FRASIER's apartment." (emphasis
17 in the original).

18 4.2.9 In response to multiple questions from Detective Stefan to try to
19 confirm Hinshaw's chronology of events, Hinshaw admits "the initial plan was to have sex."
20 Hinshaw said he "rubbed" Frasier's breasts. When asked about having sex with Frasier, and
21 Hinshaw's earlier statements that he would have used a condom, Hinshaw explained that he
22 "was going to go back to my apartment and get a condom – I guess."

23 4.2.10 Hinshaw told Detective Stefan Frasier did not want to have sex on
24 July 17, 1994, and that Hinshaw accepted Frasier's decision.
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1 4.2.11 When detectives asked Hinshaw what his response would be if the
2 medical examiner narrowed Frasier's time of death between 0200 hours and 02300 hours
3 Sunday morning, Hinshaw responded by saying: "Then I'm fucked – aren't I."

4 4.2.12 When officers took Hinshaw back to his apartment after the July 18,
5 1994 police interview, Hinshaw spontaneously commented that detectives could not help
6 him anyway.

7 **4.3 "Detectives responded to the scene and began processing the area for**
8 **evidence. Detectives noted that Audrey Frasier was lying on her back, completely**
9 **naked, on a water bed located within the living room of the apartment. The victim**
10 **showed visible signs of recent sexual contact (intercourse) as what appeared to be**
11 **semen was located around her vaginal area along with vaginal bleeding."**

13 Deliberately False Statements or Omissions; or Reckless Disregard of the Truth:

14 4.3.1 Dr. Archie Hamilton, former Clark County, WA Medical Examiner,
15 conducted an autopsy of Frasier at approximately 3:15 p.m. on July 18, 1994.

16 4.3.2 Dr. Hamilton made no note of semen found outside of Frasier's body:
17 "The external genitalia are those of an adult female. There is trace of blood extending from
18 the vaginal vault over the inner cheeks. There is no trauma to the vulva or adjacent
19 structures." Later in his report, Dr. Hamilton states "[t]here are no injuries to the labia
20 major, labia minora or other soft tissue of the vulva. The vaginal vault is examined with a
21 speculum, revealing a small amount of thick, whitish/yellow, mucoid material which is
22 blood-stained. There are no lacerations, contusions or abrasions of the vaginal vault. The
23 cervix uteri is hemorrhagic and contains a minute amount of bright red blood within the
24 endocervical canal."

1 4.3.3 Detective Stephan made no note of semen when he examined
2 Frasier's body at the crime scene. "The external opening of the victim's vagina seemed to
3 be moist, upon visual inspection, giving R/O suspicion that the victim may have had
4 intercourse recently, due to the possible excretions present."

5 **4.4 "Detectives also noted that the victim had several contusions on the**
6 **anterior portion of her neck and had what appeared to be petechial about her eyes**
7 **along with a bruise on her left lower thigh. During the investigation, detectives**
8 **collected a variety of DNA evidence including but not limited to; vaginal and anal**
9 **swabs, fingernail scrapings, saliva samples and dried secretions."**

10 4.4.1 Dr. Hamilton also noticed a puncture wound on Frasier's right mid
11 tibia.

12 4.5 **"An autopsy was performed on the victim on July 18th, 1994 by Dr.**
13 **Archie Hamilton who concluded that cause of death was strangulation and that the**
14 **manner of death was homicide. Dr. Archie Hamilton noted 'multiple contusions of the**
15 **skin, soft tissue of the neck and thyroid gland' and an 'acute fracture of the tip of the**
16 **greater horn of the hyoid bone' consistent with a strangulation. An intrapelvic**
17 **hemorrhage was also noted that involved the uterus, fallopian tubes, uterosacral**
18 **ligaments and pervesical soft tissue which was consistent with a sexual assault."**

19 Deliberately False Statements or Omissions; or Reckless Disregard of the Truth:

20 4.5.1 Dr. Hamilton does not use the words "sexual assault" in his autopsy
21 report; nor does Dr. Hamilton make any finding of a sexual assault.
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1 **4.6 “Dr. Archie Hamilton concluded that all of the noted injuries ‘appear to**
2 **have occurred in the same time frame and are acute’.”**

3 Deliberately False Statements or Omissions; or Reckless Disregard of the Truth:

4 4.6.1 Dr. Hamilton notes the “injuries” to Frasier appear to have occurred in
5 the same “time frame and are acute.” However, Dr. Hamilton does not define what he
6 means by “time frame.”

7 4.6.2 Dr. Hamilton mentions only “injuries” as appearing to have occurred
8 in the same “time frame.” He does not find, nor mention, that any DNA found on or inside
9 Frasier’s body occurred within this same “time frame.” DNA from semen, for example, may
10 be detected inside the vaginal vault for several days after intercourse.

11 4.6.3 Furthermore, an “acute” injury refers to an injury that has not begun
12 the healing process. Dr. Hamilton identified a fracture at the tip of the greater horn on
13 Frasier’s hyoid bone. This fracture will cause death within minutes or even seconds. The
14 injuries noted on Frasier’s pelvis, however, could have occurred days before the hyoid bone
15 fracture.

16 4.6.4 Defendant was aware that Frasier struggled with drug and alcohol
17 abuse, and that it was not uncommon for Frasier to engage in causal sexual encounters.

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4.7 “During the course of the initial investigation, several suspects were developed but were eliminated as being the source of the DNA evidence (semen and fingernail scrapings from the victim). The DNA located in the semen and fingernail scrapings matched and were thereby listed as unknown person; ‘Individual A’. Over the course of several years, numerous persons of interest were developed and tested against ‘Individual A’ with negative results as well as the sample being uploaded into the Combined DNA Index System (CODIS) with negative net results.”

Deliberately False Statements or Omissions; or Reckless Disregard of the Truth:

4.7.1 Defendant fails to mention the Hinshaw's DNA (i.e., seminal fluid) was found on Frasier's comforter which was located underneath Frasier's body.

4.8 **“Investigative efforts continued with advances in forensic science and in
2018 a person of interest was developed named Richard Eugene Knapp. Richard
Knapp was known to live in the Clark County, Washington area during the time of the
homicide (1994).”**

4.8.1 Plaintiff admits Defendant and other members of the Vancouver Police Department identified Plaintiff through the use of genealogical research and DNA.

4.9 **“Richard Knapp had a previous sexual assault conviction in Clark County, Washington in 1986 for which he pled guilty.”**

Deliberately False Statements or Omissions; or Reckless Disregard of the Truth:

4.9.1 Plaintiff did not plead guilty. The Prosecuting Attorney's Office charged Plaintiff with Rape in the Third Degree (no forcible compulsion or threat of violence). At no time was Plaintiff charged with Rape in the First Degree or Rape in the Second Degree. Plaintiff maintained his innocence, but a jury found Plaintiff guilty.

1 4.9.2 During the course of the trial, the victim took the stand. She did not
2 testify to strangulation or violence by Plaintiff.

3 4.9.3 At sentencing, the Court imposed sixty (60) days of jail time.

4 **4.10 “The victim in that case was contacted and stated that during this**
5 **assault in 1986, Richard Knapp had strangled her to the point of near**
6 **unconsciousness.”**

7 Deliberately False Statements or Omissions; or Reckless Disregard of the Truth:

8 4.10.1 On October 30, 2018, Defendant’s colleague, Detective Neil Martin
9 of the Vancouver Police Department, interviewed the victim of the 1986 case.

11 4.10.2 The victim never used the word “strangulation”, nor did she testify to
12 strangulation at trial. Here is the relevant exchange between the investigating officer and the
13 victim during the October 30, 2018 interview:

14 Q. When he was, ah, when he had his hand on your throat, did that,
15 were you able to breath still?

16 A. [Unintelligible] . . . Um, a few times I had problems breathing, and
17 I got dizzy and stuff, but he loosened up, you know, he didn’t do it to
18 where I passed out and things like that. So.

17 Q. OK, but, did he squeeze you, so, but he squeezed you with enough
18 force to cause you to get dizzy?

19 A. Yes.

20 **4.11 “Richard Knapp was commanded by court order to give a biological**
21 **sample which was obtained but never uploaded into any database and destroyed in**
22 **2000.”**

23 4.11.1 This statement is correct.

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1 **4.12 “Covert surveillance was conducted on both the home and place of work**
2 **of Richard Knapp in order to obtain a discarded item that might contain DNA**
3 **evidence for comparison. A cigarette butt, placed into a receptacle outside Richard**
4 **Knapp’s place of employment, was seized and subsequently analyzed by the WSP**
5 **Crime Laboratory. The DNA located in the cigarette butt matched that of unknown**
6 **person ‘Individual A’, indicating that Richard Knapp was the source DNA at the**
7 **original homicide crime scene (semen and skin cells underneath the victim’s nails).”**

8 Deliberately False Statements or Omissions; or Reckless Disregard of the Truth:

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10 4.12.1 In a report from the Washington State Patrol’s Crime Laboratory,
11 dated August 24, 2017, Plaintiff’s DNA was found in Frasier’s vaginal vault and underneath
12 her fingernails, and Plaintiff’s DNA was found in one stain on Frasier’s comforter.

13 4.12.2 Defendant fails to mention the August 24, 2017 report also identifies
14 Hinshaw’s DNA (i.e., seminal fluid) on a separate stain on the same comforter.

15 **4.13 “On 04/29/19, Vickie Kyllo, a residence [sic] of the same apartment**
16 **complex during the time period of the homicide, was contacted and shown a 1994**
17 **photograph of Richard Knapp. Vickie Kyllo stated that she ‘may have seen him**
18 **around the apartment complex’.”**

19 Deliberately False Statements or Omissions; or Reckless Disregard of the Truth:

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21 4.13.1 Defendant omits the fact that Kyllo and Plaintiff resided in a *Kelso,*
22 *WA apartment complex* for almost seven years between 2010 and 2017. Kelso, WA is over
23 forty miles from Frasier’s apartment complex.

24 4.13.2 Defendant omits the fact that Kyllo never identified Plaintiff as a
25 possible suspect in Frasier’s murder.

1 4.13.2 Defendant omits that Kyllo was arrested for burglarizing Frasier's
2 apartment in the days after her death; and that Kyllo identified her husband as a potential
3 killer.

4 4.13.3 When interviewing Kyllo to determine whether she recognized
5 Plaintiff, Defendant showed Kyllo still pictures of individuals attending Frasier's funeral.
6 When Defendant showed Kyllo a picture of Knapp, it was a booking photo.

7 **4.14 "All of the above described incidents took place within Clark County,
8 Washington and within jurisdiction of this court."**

9
10 4.14.1 Plaintiff reincorporates by reference the previously cited material
11 misstatements and omissions from the Declaration into this section.

12 **V. DELIBERATELY FALSE STATEMENTS or OMISSIONS; OR RECKLESS
13 DISREGARD for the TRUTH in the AFFIDAVIT in SUPPORT of
14 SEARCH WARRANT**

15 5.1 After Defendant was already taken into custody, Defendant submitted an
16 affidavit in support of search warrant, dated April 30, 2019 (the "Affidavit"), to a Judge Sleight
17 in order to obtain oral swabs to conduct DNA and biological analysis. In reliance upon
18 Defendant's Affidavit, Judge Sleight signed the search warrant the same day. Defendant
19 executed the warrant less than two (2) hours after the search warrant's issuance.

20 5.2 Unlike the Declaration, Defendant provided information to the Court, regarding
21 Defendant's expertise, training and experience. A true and correct copy of the Affidavit is
22 attached to and incorporated by reference into this section as **Exhibit B**.

23 5.3 Plaintiff quotes the narrative from Defendant's Affidavit, in its entirety, with
24 Plaintiff's identification of specific instances where Defendant deliberately makes false
25 statements or omissions, or where Defendant recklessly disregards the truth, after each excerpt.

1 Plaintiff emphasizes the cited deliberately false statements or omissions, or reckless disregard of
2 the truth, after each Affidavit excerpt are not exhaustive. More importantly, they are drawn from
3 information in the Frasier case file that was compiled by Defendant and other members of the
4 Vancouver Police Department *before* Defendant made application for the warrant. Therefore,
5 Defendant had full knowledge of this information before Defendant and his partner arrested
6 Plaintiff and before Defendant submitted his Affidavit to the Court.

7 **5.4 “On the evening of July 17th, 1994 patrol units with the Vancouver Police**
8 **Department (VPD) responded to a 911 call of a possible death at 8011 E Fourth Plain**
9 **Boulevard #F11 (Family Tree Apartments). The 911 caller (later identified as Scott**
10 **Hinshaw) reported that a known acquaintance named Audrey Frasier, could be seen**
11 **from an exterior window lying on her bed naked and was not responding to knocks on**
12 **the door.”**

14 Deliberately False Statements or Omissions; or Reckless Disregard of the Truth:

15 5.4.1 In his Affidavit, Defendant makes no mention that Hinshaw admitted
16 to being drunk and naked with Frasier in Frasier’s apartment, touching her “chest” and
17 kissing her abdomen, sometime after 2:00 a.m. on July 17, 1994. Defendant makes no
18 mention of the fact that Hinshaw admitted to manipulating the crime scene prior to arrival of
19 investigating officers on July 17, 1994. Defendant fails to mention that Hinshaw’s DNA
20 (i.e., seminal fluid) was found on the comforter underneath Frasier’s body. Defendant
21 portrays Hinshaw as merely a fact witness; a concerned neighbor who called the police. In
22 fact, Hinshaw was (and remains) a prime suspect in Frasier’s murder.

24 5.4.2 Detective Wally Stefan was one of the original officers who
25 investigated Frasier’s murder. On July 18, 1994, Detective Stefan and his partner

1 interviewed Hinshaw at a Vancouver Police precinct. Detective Stefan stated in his report
2 that "HINSHAW gave investigators every impression, throughout the interview, he was
3 being deceptive."

4 5.4.3 Hinshaw also lived at the Family Tree Apartments. Hinshaw admitted
5 to drinking beer with Frasier, in her apartment, during the afternoon on Saturday, July 16,
6 1994.

7 5.4.4 According to Hinshaw, he went to a bar early Saturday evening, and
8 Frasier stayed in her apartment until approximately 2100 hours that day. Detective Stefan
9 notes "[Hinshaw] did not say how he knew this."

10 5.4.5 Hinshaw told Detective Stefan he returned from the bar at
11 approximately 2:00 a.m. to 2:30 a.m. the morning of July 17, 1994.

12 5.4.6 Hinshaw admitted to drinking at several bars, and that he was
13 "drunk."

14 5.4.7 Hinshaw stated Frasier came home after he did. She went to
15 Hinshaw's apartment. Hinshaw then told Detective Stefan he and Frasier went to Frasier's
16 apartment. Hinshaw described Frasier as "not sober."

17 5.4.8 Frasier had her bed in her apartment's living room. Hinshaw recounts
18 he laid on the right side of the bed while Frasier spoke on the phone.

19 5.4.9 "[Hinshaw] said he was lying on the right side of FRASIER's bed, the
20 side of the bed which was closest to the kitchen. While inside her apartment, after she used
21 the phone, HINSHAW stated FRASIER disrobed. He told detectives FRASIER took her
22 clothes off, she stated that she did not want to have sex." Hinshaw informed detectives,
23 initially, he was only wearing a pair of shorts.

1 5.4.10 In response to a question from Detective Stefan, Hinshaw recounts he
2 had had sex with Frasier only once before, a couple of months before Frasier's death.

3 5.4.11 While lying on Frasier's bed, Hinshaw claims he heard a knock at the
4 door, and Frasier said, "My pot is here." Hinshaw then told Detective Stefan he took a
5 blanket from Frasier's bed and fled out the apartment's back door. Hinshaw states he then
6 went to bed.

7 5.4.12 Hinshaw then told Detective Stefan he returned to Frasier's apartment
8 between the hours of 12:00 p.m. and 12:30 p.m. on July 17, 1994. There was no answer.
9 Hinshaw assumed Frasier "took off" with whoever knocked on her door earlier that day.
10

11 5.4.12.1 Hinshaw called 911 at approximately 7:45 p.m. on July 17,
12 1994.

13 5.4.13 Detective Stefan stated "HINSHAW's account of what happened
14 Saturday night was disjointed. Throughout the interview with HINSHAW, Detectives had to
15 go through HINSHAW's statements to have him clarify his incomplete answers so detectives
16 could assemble a clear, and chronological, account of his actions during the time he was
17 with FRASIER."

18 5.4.14 After detectives informed Hinshaw that there was forensic evidence at
19 the scene and asked why fingerprints and a hair were found on Frasier's chest and abdomen,
20 Hinshaw admitted to touching Frasier's chest and to kissing her abdomen. When asked if it
21 was possible his fingerprints could be found on Frasier's neck, Hinshaw answered his hand
22 may have touched Frasier's neck when he moved to touch her chest.
23

24 5.4.15 Hinshaw *then* admits to taking his clothes off when Frasier disrobed.
25

1 5.4.16 “Hinshaw said he took his shorts off in FRASIER’s apartment. He
2 was asked if he had sex with FRASIER that night. He said he couldn’t remember.
3 FRASIER [sic] said he would have used a condom if he was going to have sex with the
4 decedent.”

5 5.4.17 “HINSHAW made the statement to detectives; ‘I know I didn’t have
6 sex with her.’ He seemed adamant that he didn’t [have] sex with FRASIER. Detectives
7 informed HINSHAW that his statements were very vague. He responded by saying: ‘I’m
8 telling you as much as I remember.’”

9
10 **5.5 “Patrol units arrived at the location and found no open ingress into the**
11 **residence as the front door and rear sliding glass door were locked. Patrol units could**
12 **see the naked female from a window and also could not rouse her. The patrol units**
13 **subsequently forced the front door open to the apartment. Officers were quickly able**
14 **to determine that the female, identified as Aubrey Frasier, was deceased.”**

15 Deliberately False Statements or Omissions; or Reckless Disregard of the Truth:

16 5.5.1 In his Affidavit, Defendant omits the fact that Hinshaw admitted to
17 altering the crime scene on July 17, 1994, *after the police first arrived at Frasier’s*
18 *apartment.* While officers secured the front of Frasier’s apartment, Hinshaw was busy
19 shoving a comforter he took Frasier’s apartment through a window from Frasier’s back
20 patio, knocking over a potted plant inside the apartment. Hinshaw returned the comforter so
21 hurriedly that he failed to notice he dumped some of his clothes (which were presumably
22 wrapped in the comforter) on Frasier’s patio.

23
24 5.5.2 According to Detective Stefan, “There was a question whether the
25 rear sliding patio window of FRASIER’s apartment was open, or closed, when one of the

1 first responding officers (VPD Uniform Officer Skarpho) arrived. Officer Skarpho told
 2 [Detective Stefan] that at the time he arrived, he was escorted to the rear of FRASIER'S
 3 apartment, by HINSHAW. Officer Skarpho told [Detective Stefan] the rear window was
 4 closed and the mini-blinds on this window were closed." However, Officer Skarpho
 5 reported he could see Frasier lying on the bed between a gap between the bottom of the
 6 window's blind and the windowsill.

7

8 5.5.2.1 Hinshaw himself reported he saw Frasier from the rear patio
 9 through this same gap between the blind and the windowsill before calling 911 at
 10 approximately 7:45 p.m. on July 17, 1994.

11

12 5.5.3 "However, at the time [Detective Stefan] first entered the victim's
 13 apartment, [Detective Stefan] noticed that the rear patio window blinds were closed. The
 14 bottom of the blind was touching the windowsill. The sliding window was open. On the
 15 floor, below the window, [Detective Stefan] saw what appeared to be a small plant that had
 16 fallen on the floor. It appeared the plant had been sitting on the windowsill and had been
 17 knocked off the sill."

18

19 5.5.4 "After seeing this [Detective Stefan] went outside and questioned
 20 Officer Skarpho about how he could have seen the victim lying on the bed from outside the
 21 apartment. It was at this time Officer Skarpho said the window was closed and the window
 22 shade was not fully extended to the windowsill."

23

24 5.5.5 Detective Stefan noted the officers who first responded to Hinshaw's
 25 911 call positioned themselves in the front of Frasier's apartment. Not the rear. When
 Detective Stefan questioned Hinshaw, on July 18, 1994, on the discrepancies between his
 observations of the windowsill and window and Officer Skarpho's observations, Hinshaw

1 “told detectives that he shoved a blanket through the rear patio window of FRASIER’s
2 apartment. He said the rear window was open, ‘all the way.’ HINSHAW told detectives
3 after he discovered FRASIER, he shoved the blanket (which [he] had taken from
4 FRASIER’S apartment early Sunday morning) through FRASIER’S patio window. He said
5 he put the blanket into FRASIER’S apartment shortly before he called 911.”
6

7 5.5.6 Hinshaw stated the plant on the sill may have fallen over, and he
8 estimated he shoved the blanket through the window five to ten minutes before calling 911.
9

10 5.5.7 Hinshaw went on to admit he called his brother before calling 911.
11 When asked for his brother’s phone number, Hinshaw stated he did not have it memorized.
12 When asked why he called his brother before calling the police about Frasier, Hinshaw
13 explained he brother had experience in such an area because Hinshaw’s brother had once
14 found a dead person.

15 5.5.8 In addition to the blinds, the window, and the blanket shoved back
16 into Frasier’s apartment, Detective Stefan noted a further discrepancy related to clothing
17 found on Frasier’s back patio. “When HINSHAW was questioned about the clothes which
18 were found by police on the decedent’s patio, he said the clothes found outside could have
19 been wrapped in the blanket which he took from FRASIER’S apartment early Sunday
20 morning. It should be noted, Officer Skarpho told [Detective Stefan] and Detective Sundby
21 at the time that he first went to the rear of FRASIER’s apartment, with HINSHAW, there
22 was no clothing lying on the concrete patio at the rear of FRASIER’s apartment.” (emphasis
23 in the original).

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26

1 5.5.9 In response to multiple questions from Detective Stefan to try to
2 confirm Hinshaw's chronology of events, Hinshaw admits "the initial plan was to have sex."
3 Hinshaw said he "rubbed" Frasier's breasts. When asked about having sex with Frasier, and
4 Hinshaw's earlier statements that he would have used a condom, Hinshaw explained that he
5 "was going to go back to my apartment and get a condom – I guess."

6 5.5.10 Hinshaw told Detective Stefan Frasier did not want to have sex on
7 July 17, 1994, and that Hinshaw accepted Frasier's decision.

8 5.5.11 When detectives asked Hinshaw what his response would be if the
9 medical examiner narrowed Frasier's time of death between 0200 hours and 02300 hours
10 Sunday morning, Hinshaw responded by saying: "Then I'm fucked – aren't I."

12 5.5.12 When officers took Hinshaw back to his apartment after the July 18,
13 1994 police interview, Hinshaw spontaneously commented that detectives could not help
14 him anyway.

15 **5.6 "Detectives responded to the scene and began processing the area for**
16 **evidence. Detectives noted that Audrey Frasier was lying on her back, completely**
17 **naked, on a water bed located within the living room of the apartment. The victim**
18 **showed visible signs of recent sexual contact (intercourse) as what appeared to be**
19 **semen was located around her vaginal area along with vaginal bleeding."**

20 Deliberately False Statements or Omissions; or Reckless Disregard of the Truth:

22 5.6.1 Dr. Archie Hamilton, former Clark County, WA Medical Examiner,
23 conducted an autopsy of Frasier at approximately 3:15 p.m. on July 18, 1994.

24 5.6.2 Dr. Hamilton made no note of semen found outside of Frasier's body:
25 "The external genitalia are those of an adult female. There is trace of blood extending from

1 the vaginal vault over the inner cheeks. There is no trauma to the vulva or adjacent
2 structures." Later in his report, Dr. Hamilton states "[t]here are no injuries to the labia
3 major, labia minora or other soft tissue of the vulva. The vaginal vault is examined with a
4 speculum, revealing a small amount of thick, whitish/yellow, mucoid material which is
5 blood-stained. There are no lacerations, contusions or abrasions of the vaginal vault. The
6 cervix uteri is hemorrhagic and contains a minute amount of bright red blood within the
7 endocervical canal."

8 5.6.3 Detective Stephan made no note of semen when he examined
9 Frasier's body at the crime scene. "The external opening of the victim's vagina seemed to
10 be moist, upon visual inspection, giving R/O suspicion that the victim may have had
11 intercourse recently, due to the possible excretions present."

13 5.7 **"Detectives also noted that the victim had several contusions on the**
14 **anterior portion of her neck and had what appeared to be petechial about her eyes**
15 **along with a bruise on her left lower thigh. During the investigation, detectives**
16 **collected a variety of DNA evidence including but not limited to; vaginal and anal**
17 **swabs, fingernail scrapings, saliva samples and dried secretions."**

18 5.7.1 Dr. Hamilton also noticed a puncture wound on Frasier's right mid
19 tibia.
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1 **5.8 "An autopsy was performed on the victim on July 18th, 1994 by Dr.**
2 **Archie Hamilton who concluded that cause of death was strangulation and that the**
3 **manner of death was homicide. Dr. Archie Hamilton noted 'multiple contusions of the**
4 **skin, soft tissue of the neck and thyroid gland' and an 'acute fracture of the tip of the**
5 **greater horn of the hyoid bone' consistent with a strangulation. An intrapelvic**
6 **hemorrhage was also noted that involved the uterus, fallopian tubes, uterosacral**
7 **ligaments and pervesical soft tissue which was consistent with a sexual assault."**

8 Deliberately False Statements or Omissions; or Reckless Disregard of the Truth:

9 5.8.1 Dr. Hamilton does not use the words "sexual assault" in his autopsy
10 report; nor does Dr. Hamilton make any finding of a sexual assault.

12 5.9 **"Dr. Archie Hamilton concluded that all of the noted injuries 'appear to**
13 **have occurred in the same time frame and are acute'."**

14 Deliberately False Statements or Omissions; or Reckless Disregard of the Truth:

15 5.9.1 Dr. Hamilton notes the "injuries" to Frasier appear to have occurred in
16 the same "time frame and are acute." However, Dr. Hamilton does not define what he
17 means by "time frame."

18 5.9.2 Dr. Hamilton mentions only "injuries" as appearing to have occurred
19 in the same "time frame." He does not find, nor mention, that any DNA found on or inside
20 Frasier's body occurred within this same "time frame." DNA from semen, for example, may
21 be detected inside the vaginal vault for several days after intercourse.

23 5.9.3 Furthermore, an "acute" injury refers to an injury that has not begun
24 the healing process. Dr. Hamilton identified a fracture at the tip of the greater horn on
25 Frasier's hyoid bone. This fracture will cause death within minutes or even seconds. The

1 injuries noted on Frasier's pelvis, however, could have occurred days before the hyoid bone
2 fracture.

3 5.9.4 Defendant was aware that Frasier struggled with drug and alcohol
4 abuse, and that it was not uncommon for Frasier to engage in causal sexual encounters.

5 5.10 **"During the course of the initial investigation, several suspects were**
6 **developed but were eliminated as being the source of the DNA evidence (semen and**
7 **fingernail scrapings from the victim). The DNA located in the semen and fingernail**
8 **scrapings matched and were thereby listed as unknown person; 'Individual A'. Over**
9 **the course of several years, numerous persons of interest were developed and tested**
10 **against 'Individual A' with negative results as well as the sample being uploaded into**
11 **the Combined DNA Index System (CODIS) with negative net results."**

13 **Deliberately False Statements or Omissions; or Reckless Disregard of the Truth:**

14 5.10.1 Defendant fails to mention the Hinshaw's DNA (i.e., seminal fluid)
15 was found on Frasier's comforter which was located underneath Frasier's body.

16 5.11 **"In 2018, with advances in DNA testing technology and open source DNA**
17 **genealogy catalogues, a sample of 'Individual A' was sent to Parabon NanoLabs, a**
18 **company based in Reston, Virginia that provides DNA phenotyping services**
19 **(composite sketches based on DNA) for law enforcement. The sample of 'Individual A'**
20 **was also uploaded and compared by Parabon NanoLabs to GED match which is an**
21 **open data personal genomics database and genealogy website. Parabon NanoLabs was**
22 **then able to determine that 'Individual A' shared similar DNA characteristics with a**
23 **known person with a second cousin relationship. By working a genealogical analysis**
24 **from this known person, Parabon NanoLabs was able to locate a person of interest**

1 named Richard Eugene Knapp (04/05/1965) who was known to live in Vancouver,
2 Washington area during the time of the criminal act.”

3 5.11.1 Plaintiff admits Defendant and other members of the Vancouver
4 Police Department identified Plaintiff through the use of genealogical research and DNA.

5 5.12 “Richard Knapp was convicted of sexual assault in the State of
6 Washington in 1986 but his DNA was not uploaded to any database.”

7 Deliberately False Statements or Omissions; or Reckless Disregard of the Truth:

8 5.12.1 Unlike the Declaration, Defendant correctly states Plaintiff was
9 convicted of sexual assault in 1986 instead of pleading guilty.

10 5.12.2 Defendant excised any reference to strangulation of the victim of the
11 1986 assault in the Affidavit, contrary to Defendant’s statements in the Declaration.
12 Defendant prepared the Affidavit after a custodial, post-arrest interrogation of Plaintiff on
13 April 28, 2019. During that interrogation, Plaintiff denied ever strangling any previous
14 sexual partners. Plaintiff also informed Defendant, and his partner, Detective Martin, that
15 strangulation never was brought up during his 1986 trial.

16 5.12.3 Defendant fails to mention, as he did in his Declaration, that Plaintiff
17 provided a court-ordered biological sample that was never uploaded into any database and
18 that was destroyed in 2000.

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1 **5.13 “Covert surveillance was conducted on both the home and place of work**
2 **of Richard Knapp in order to obtain a discarded item that might contain DNA**
3 **evidence for comparison. A cigarette butt, placed into a receptacle outside Richard**
4 **Knapp’s place of employment, was seized and subsequently analyzed by the WSP**
5 **Crime Laboratory. The DNA located in the cigarette butt matched that of unknown**
6 **person ‘Individual A’, indicating that Richard Knapp was the source DNA at the**
7 **original homicide crime scene (semen and skin cells underneath the victim’s nails).”**

8 Deliberately False Statements or Omissions; or Reckless Disregard of the Truth:

9
10 5.13.1 In a report from the Washington State Patrol’s Crime Laboratory,
11 dated August 24, 2017, Plaintiff’s DNA was found in Frasier’s vaginal vault and underneath
12 her fingernails, and Plaintiff’s DNA was found in one stain on Frasier’s comforter.

13 5.13.2 Defendant fails to mention the August 24, 2017 report also identifies
14 Hinshaw’s DNA (i.e., seminal fluid) on a separate stain on the same comforter.

15 **5.14 “Richard Knapp was contacted on April 28th, 2019 at his residence in**
16 **Oregon and gave a voluntary statement. During this interview, Richard Knapp denied**
17 **knowing the victim or having any sexual contact with her. Richard Knapp was**
18 **subsequently booked into Multnomah County Jail (Oregon) on a fugitive warrant and**
19 **was transported to Clark County Jail (Washington) on April 30, 2019 for formal**
20 **charging.”**

21 Deliberately False Statements or Omissions; or Reckless Disregard of the Truth:

22
23 5.14.1 Defendant fails to mention that Plaintiff struggled to recall people and
24 places, dating back twenty-five (25) years; or that Plaintiff admitted to partying in his

1 younger years and that he slept with multiple women during this time period who he could
2 not recall.

3 15.14.2 Defendant's reference to a "fugitive warrant" leaves the Court with
4 the incorrect impression Plaintiff was already wanted on some other offense because Judge
5 Clark did not authorize Plaintiff's arrest warrant until April 29th. Although Plaintiff was
6 arrested in Oregon, Plaintiff never saw an Oregon judge nor did Plaintiff go through any
7 extradition process before Plaintiff was transported to Clark County, Washington.
8

9 **VI. CLAIM FOR JUDICIAL DECEPTION**
10 **RE: Declaration for Probable Cause**
11 **(Civil Rights Claim under 42 U.S.C. § 1983)**

12 6.1 Plaintiff reincorporates by reference all prior allegations from Articles I
13 through IV of this Complaint into this section.

14 6.2 The Fourth Amendment, as made applicable in this case through the
15 Fourteenth Amendment, protects a person's rights "to be secure in their persons, houses,
16 papers, and effects, against unreasonable searches and seizures." U.S. Const. amend. IV.

17 6.3 Plaintiff could only have been arrested and detained for Frasier's murder
18 based upon the Court's determination of probable cause.

19 6.4 Judge Clark determined probable cause existed for Plaintiff's arrest and
20 detention, based upon the Defendant's Declaration.

21 6.5 Plaintiff specifically alleges Defendant completed the Declaration, and that
22 the Declaration was submitted to Judge Clark on April 29, 2019, while Defendant acted
23 under color of state law as a Detective for the Vancouver Police Department.

24 6.6 Defendant's deliberately false statements and omissions, or Defendant's
25 reckless disregard of the truth, cited in Article IV of this Complaint support a claim for

1 judicial deception against Defendant under 42 U.S.C. § 1983 for Defendant's violation of
2 Plaintiff's Fourth Amendment rights (as guaranteed by the Fourteenth Amendment) while
3 Defendant acted under color of state law.

4 6.7 The allegations in Article IV of this Complaint evidence Defendant included
5 deliberately false statements or omissions in his Declaration; or that Defendant submitted his
6 Declaration in reckless disregard for the truth.

7 6.8 Defendant's deliberately false statements or omissions, or Defendant's
8 reckless disregard for the truth, were material to Judge Clark's finding of probable cause.

9
10 6.9 If the Declaration did not include the deliberately false statements or
11 omissions, or if the Declaration did not evidence Defendant's reckless disregard for the
12 truth, Judge Clark would not have found probable cause to arrest and detain Plaintiff.

13 6.10 Plaintiff spent over three years in jail. His wife died while he awaited trial.
14 His efforts to be with her before she died were denied in a two sentence order. Plaintiff has
15 suffered severe emotional distress. His career and relationships with friends and family
16 were destroyed. He lost his home. He remains a pariah in the community, as the cloud of
17 Frasier's murder follows him wherever he goes.

18 6.11 Defendant participated in a custodial interrogation of Plaintiff on April 28,
19 2019. Plaintiff emphatically denied killing Frasier; he denied "strangling" women during
20 sex; he admitted to having multiple relationships with women during his younger years and
21 that he drank and did drugs. When asked whether he drank and did drugs to the point where
22 he blacked out or did not remember things, Plaintiff said "I'd remember if I killed
23 someone!"

25

1 **VII. CLAIM FOR JUDICIAL DECEPTION**
2 **RE: Affidavit in Support of Search Warrant**
3 **(Civil Rights Claim under 42 U.S.C. § 1983)**

4 7.1 Plaintiff reincorporates by reference all prior allegations from Articles I
5 through V of this Complaint into this section.

6 7.2 The Fourth Amendment, as made applicable in this case through the
7 Fourteenth Amendment, protects a person's rights "to be secure in their persons, houses,
8 papers, and effects, against unreasonable searches and seizures." U.S. Const. amend. IV.

9 7.3 Defendant could have only obtained a biological sample for DNA or
10 biological testing from Plaintiff based upon the Court's determination of probable cause.

11 7.4 Judge Sleight determined probable cause existed to obtain a search warrant,
12 authorizing the collection of a biological sample from Plaintiff for DNA or biological
13 testing, based upon the Defendant's Affidavit.

14 7.5 Plaintiff specifically alleges Defendant completed the Affidavit, and that the
15 Affidavit was submitted to Judge Sleight on April 30, 2019, while Defendant acted under
16 color of state law as a Detective for the Vancouver Police Department.

17 7.6 Defendant's deliberately false statements and omissions, or Defendant's
18 reckless disregard of the truth, cited in Article V of this Complaint support a claim for
19 judicial deception against Defendant under 42 U.S.C. § 1983 for Defendant's violation of
20 Plaintiff's Fourth Amendment rights (as guaranteed by the Fourteenth Amendment) while
21 Defendant acted under color of state law.

22 7.7 The allegations in Article V of this Complaint evidence Defendant included
23 deliberately false statements or omissions in his Affidavit; or that Defendant submitted his
24 Affidavit in reckless disregard for the truth.

7.8 Defendant's deliberately false statements or omissions, or Defendant's reckless disregard for the truth, were material to Judge Sleight's finding of probable cause.

7.9 If the Declaration did not include the deliberately false statements or omissions, or if the Affidavit did not evidence Defendant's reckless disregard for the truth, Judge Sleight would not have found probable cause to arrest and detain Plaintiff.

7.10 Defendant subjected Plaintiff to an invasive and humiliating search. Plaintiff spent over three years in jail. His wife died while he awaited trial. His efforts to be with her before she died were denied in a two-sentence order. Plaintiff has suffered severe emotional distress. His career and relationships with friends and family were destroyed. He lost his home. He remains a pariah in the community, as the cloud of Frasier's murder follows him wherever he goes.

7.11 Defendant participated in a custodial interrogation of Plaintiff on April 28, 2019. Plaintiff emphatically denied killing Frasier; he denied “strangling” women during sex; he admitted to having multiple relationships with women during his younger years and that he drank and did drugs. When asked whether he drank and did drugs to the point where he blacked out or did not remember things, Plaintiff said “I’d remember if I killed someone!”

VIII. REQUEST FOR RELIEF

WHEREFORE, Plaintiff requests relief as follows:

8.1 Compensatory damages;

8.2 Punitive damages from Defendant on Plaintiff's claim under 42 U.S.C. §

1 8.3 Costs, including reasonable attorney fees, under 42 U.S.C. § 1988 and to the
2 extent otherwise permitted by law;

3 8.4 The right to conform the pleadings to the evidence presented at trial;

4 8.5 Such other relief as may be just and equitable.

5 Dated this 12th day of February 2024 by:

6 s/ Charles A. Isely
7 Charles A. Isely, WSBA #34130
8 Attorney for Plaintiff

6 s/ John L. Green
7 John L. Green, WSBA #35483
8 Attorney for Plaintiff